

Department of Energy
Washington, DC 20585

March 31, 2009



Acting Chairman Francis P. Mulvey
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D C 20420-0001

RE. Docket Nos 38302S and 38376S

Dear Chairman Mulvey:

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and is engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. The Government and BNSF met on February 3, 2009, and plan to continue discussions. The Government is awaiting Norfolk Southern's response to information supplied by the Government following the parties' June 17, 2008 meeting.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain hopeful that we will be able to reach agreements with both carriers. We will file a further report by the end of June 2009.

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

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cc Board Member Charles D. Nottingham
Attached Service List

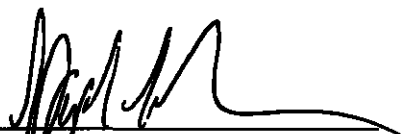


CERTIFICATE OF SERVICE

I, Stephen C Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 31st day of March, 2009, on the following

Aberdeen & Rockfish R R Co P O Box 917 Aberdeen, NC 28315	Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc 66 Field Point Road Greenwich, CT 06830
Montana Rail Link, Inc 101 International Way Missoula, MT 59808	James R Paschall Greg E Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
Michael L Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D C 20004-2401	Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131
Paul Hitchcock Associate General Counsel CSX Transportation, Inc 500 Water Street - J150 Jacksonville, FL 32202	Theodore K Kalick Canadian National Railway Company 601 Pennsylvania Avenue, N W. Suite 500 North Building Washington, D C 20004
Chris Guzzi Deborah Sedaris Providence & Worcester Railroad Co 75 Hammon Street Worcester, MA 01610	Robert G Culliford, Esq Guilford Transportation System Iron Horse Park North Billerica, MA 01862
Richard D Robey, President North Shore Railroad Company 356 Priestly Avenue Northumberland, PA 17857	J Michael Hemmer Louise A Rinn Union Pacific Railroad Company 1400 Douglas Road, Stop 1580 Omaha, NE 68179
George H Kleinberger P O Box 8002 Clifton Park, NY 12065	Ronald E Fittrow 500 Water Street Jacksonville, FL 32202

D J Lewis Director of Marketing Tuscola & Saginaw Bay Railway Company 308 West Main Street Matthews Building, Suite 303 Owosso, MI 48867	Paul Guthrie Canadian Pacific Railway Company 401 9th Avenue, S W Gulf Canada Square, Suite 500 Calgary, Alberta T2P 4 Z4 Canada
Samuel M Sipe, Jr Carolyn D Clayton Steptoe & Johnson LLP 1330 Connecticut Avenue, N W Washington, D C 20036	Robert H Wheeler General Counsel Wisconsin Chicago Link Ltd 17641 Ashland Avenue Homewood, IL 60430
Terence M. Hynes Sidley Austin Brown & Wood, LLP 1501 K Street, N W Washington, D C 20005	Thomas J. Litwiler Fletcher & Sipple LLC 29 North Wacker Drive Suite 920 Chicago, IL 60606
Michael F McBride Lebocuf Lamb Greene & MacRae 1101 New York Avenue, N W Suite 1100 Washington, D C 20005	



Stephen C Skubel